IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

AND
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION No.19384 of 2004

Between:

1. Muslim Welfare Association, rep. by Secretary,

Shaik Meera Saheb, S/o. Shaik Nabeer Saheb,
Juvvalapalem, Pentapadu Mandal, West Godavari District.
2. The Rajaka Sangham, rep. by President, Madicherla Subbarao, Juvvalapalem, Pentapadu Mandal, West Godavari District.
3. Kurella Krishna Murthy, S/o. K. Satyarnarayana , Juvvalapalem, Pentapadu Mandal, West Godavari District

..... PETITIONERS

AND

1 The Collector, West Godavari District, Eluru.
2 The Municipal Commissioner, Tadepalli Gudem Municipaltiy,

Tadepalli Gudem, West Godavari District.
3 A.P. State Wakf Board, rep. by Chief Executive Officer, Nampally,

Hyderabad.
4 The Mandal Revenue Officer, Tadapalligudem, West Godavari

District.
5 The Mandal Revenue Officer, Pentapadu mandal, West Godavari

District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ, order or direction and more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in proposing to construct summer storage tank in Sy. No. 7 of an extent of Ac. 7.90 Cents Juvvalapalem Village, Pentapadu Mandal, West Godavari District as illegal, violative of Articles 14 and 26(b) of the Constitution of India.

Counsel for the Petitioners: Mrs. P.V.V.B.RAJESWARI

Counsel for Respondent Nos.1, 4 & 5: G.P. FOR REVENUE

Counsel for Respondent No.2: Mr. DANTU SRINIVAS

Counsel for Respondent No.3: Mr. A.M.QURESHI.

The Court made the following :

ORAL ORDER: (per Hon'ble Sri Bilal Nazki, the Acting Chief Justice)

Heard the learned counsel for the parties.

The writ petition was filed by two associations and an individual. Petitioner No.1 is Muslim Welfare Association, second petitioner is Rajaka Sangham and third petitioner is an individual. They stated that the land to an extent of Ac.7.90 cents in Sy.No.7, Juvvalapalem village in Pentapadu Mandal, West Godavari District was marked and is being utilized as *Khabiristhan* by the Muslim community. It comes under Ward No.20 of Tadepalligudem Municipality. It is stated that it is being used as graveyard by the Muslim community and as cremation ground by people belonging to different religions like Hindus. This is the only graveyard-cum-cremation ground which is available for the public to perform the last rites. It is stated that during the year 2001, it was proposed to construct a mosque near the said burial ground and also to construct a compound wall. Pursuant to the representation, third respondent granted a sum of Rs.50,000/- for the purpose of construction of compound wall around the burial ground. The compound wall around the burial ground was constructed partly but could not be completed for want of funds. A representation was made to fourth respondent requesting for sanction of further amount. Fourth respondent wrote a letter to the Revenue Divisional Officer, Eluru for an amount of Rs.1,80,000/-. Recently some officials from the Revenue Department came to the burial ground and noted the boundaries. On enquiry, the petitioners found that first respondent is proposing to construct a summer storage tank in that area and that a notification to that effect will be issued very shortly. The grievance of the petitioners is that the storage tank is being constructed in the burial ground,

therefore, the respondents may be directed to construct the storage tank somewhere else.

In the counter affidavit filed by the Mandal Revenue Officer, Pentapadu, it is stated that the land belongs to the Government on which construction of tank is proposed. It is, however, admitted that a portion of the land in R.S.No.7 is being utilized as burial ground by different communities. Muslims are using about Ac.0.60 cents in R.S.No.7 as burial ground which would not be included in the tank. Since the respondents have stated that no part of the burial ground is being used for the purpose of construction of tank, therefore, we do no think any orders can be passed by this Court. However, if there is any grievance to the inhabitants of the village, they may make a representation to the concerned authorities and the same may be decided in accordance with law.

The writ petition is accordingly disposed of.

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(BILAL NAZKI, ACJ)

21st June 2005.

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(G.CHANDRAIAH, J.)

ARS

To

1 The Collector, West Godavari District, Eluru.
2 The Municipal Commissioner, Tadepalli Gudem Municipaltiy,

Tadepalli Gudem, West Godavari District.
3 The Chief Executive Officer A.P. State Wakf Board, Nampally,

Hyderabad.
4 The Mandal Revenue Officer, Tadapalligudem, West Godavari

District.
5 The Mandal Revenue Officer, Pentapadu mandal, West Godavari

District.

6 Two C.Cs. to Govt. Pleader for Revenue, High Court Bldgs.,

Hyderabad (OUT).

7 Two C.D. copies.